

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MOORE/LOCKETT, Minors.

UNPUBLISHED

July 15, 2014

No. 319883

Calhoun Circuit Court

Family Division

LC No. 2012-000843-NA

Before: BECKERING, P.J., and HOEKSTRA and GLEICHER, JJ.

PER CURIAM.

The circuit court terminated respondent-mother's parental rights to her two young children under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist) and (g) (failure to provide proper care and custody). As the record evidence supports the existence of these factors and that termination was in the children's best interests, we affirm.

I. BACKGROUND

In March 2012, petitioner took respondent's children into care on an emergency basis. The previous year, respondent had illegally removed her eldest child from the care of her guardian. Law enforcement finally caught up to respondent and she was arrested for parental kidnapping and failure to pay child support to the guardian. When respondent was arrested, she left her children with her aunt. The aunt was not a suitable placement, however. She was terminally ill, suffered from untreated mental health issues, and her own children had been removed from her custody and placed in foster care.

During the 20-month child protective proceedings, petitioner attempted to provide services toward reunification. Respondent initially benefited, completing a parenting class and moving from Battle Creek to Detroit to be closer to her family for assistance. Respondent's cooperation quickly dissolved. Respondent began working to earn her GED, but rarely attended classes. She secured a position at a salon, but then changed jobs and never provided verification of employment. She moved between the homes of relatives and never settled in a permanent or stable location. Respondent submitted to a psychological evaluation. The evaluator recommended intensive therapy based on the respondent's troubled childhood and psychological issues. Respondent engaged a private therapist, but was unable to pay and stopped attending after only two sessions. She subsequently failed to maintain contact with her caseworker, preventing petitioner from referring her for services.

Respondent also failed to preserve her relationship with her children. During the proceedings, the court ordered generous supervised parenting time, allowing respondent three visits each week. Yet, respondent failed to visit or contact the children for a six-month period. Respondent claimed that she could not attend visits because of her GED classes, which later evidence revealed she did not attend, and transportation issues. Respondent declined the caseworker's offer for transportation assistance, however. On the eve of the termination hearing, respondent finally attended a parenting time session. She informed the caseworker that she knew termination of her parental rights was imminent and she "just wanted to see the children a few more times." At the visit, the young children did not remember their mother. Respondent attended no further visitation and decided not to participate in the termination hearing, either in person or by telephone.¹

II. GROUNDS FOR TERMINATION

Respondent contends that the circuit court erred in finding grounds to support termination of her parental rights. Based on the record evidence, we cannot agree.

Pursuant to MCL 712A.19b(3), a trial court "may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence" that at least one statutory ground has been proven. The petitioner bears the burden of proving that ground. MCR 3.977(A)(3); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). We review a circuit court's factual finding that a statutory termination ground has been established for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013) (quotation marks and citation omitted). "Clear error signifies a decision that strikes us as more than just maybe or probably wrong." *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009). Furthermore, the "clear and convincing standard is the most demanding standard applied in civil cases[.]" *Id.* (citations omitted).

The circuit court's ruling is inartfully worded and fails to cite the specific grounds upon which it based the termination decision. Our review of the record reveals that the court likely relied upon two grounds cited in the petition, MCL 712A.19b(3)(c)(i) and (g).²

The circuit court did not clearly err in finding by clear and convincing evidence that termination was supported under MCL 712A.19b(3)(c)(i). MCL 712A.19b(3)(c)(i) supports termination when:

¹ The lower court mistakenly labeled the termination hearing as a "trial."

² Respondent contends that the circuit court also relied upon MCL 712A.19b(3)(j) (risk of harm to the child if returned to the parent's care). The court cited that ground only in terminating the father's parental rights.

The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order and the court, by clear and convincing evidence, finds . . . [t]he conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

Termination is proper under this factor when the parent participates in services but "the totality of the evidence amply supports that [the respondent] had not accomplished any meaningful change in the conditions" that led to adjudication. *In re Williams*, 286 Mich App 253, 272; 779 NW2d 286 (2009).

The conditions that led to adjudication were respondent's inability to provide care and custody for the children because of her incarceration and her lack of parenting skills, evidenced by her failure to secure safe and proper supervision for the children during her incarceration. After 20 months of attempted services, respondent had completed a parenting class. However, there is no record evidence that respondent's parenting skills were improved as a result. Respondent had not secured necessary counseling to resolve her serious psychological issues. Respondent was still unable to provide a safe home environment for her children as she had lived with at least five different relatives during the proceedings, many of which had not been investigated for safety by the caseworker. Although respondent was living with her grandmother at the time of the termination hearing and the caseworker determined that the house would be suitable once beds were obtained for the children, respondent was uncertain regarding the length of her welcome in that home.

The evidence also supported that respondent could not remedy these conditions within a reasonable time given the children's ages. Respondent had ample opportunity to participate in services and yet made little progress. Respondent arranged to complete her GED but then was truant from the program. She failed to follow through with necessary counseling services by contacting her caseworker for a referral. Although respondent claimed to have secured employment, she failed to provide verification of that fact. Respondent refused bus and fuel vouchers despite claiming that her lack of transportation hindered her participation in services. And respondent destroyed her bond with her children by having no contact with them for six months. As a result, her young children did not even recognize their mother. Given respondent's failure to participate in and benefit from services during the 20-month proceedings, the circuit court did not clearly err in determining that respondent would be unable to remedy these conditions within a reasonable time.

III. BEST INTERESTS

Respondent also contends that termination of her parental rights was not in the children's best interests. This decision was also supported by the record evidence.

Pursuant to MCL 712A.19b(5), "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." A circuit court must determine by a preponderance of the evidence that termination is in the child's best interest. *Moss*, 301 Mich App at 83. "In deciding

whether termination is in the child's best interests, the court may consider the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted). "The trial court may also consider a parent's history of domestic violence, the parent's compliance with his or her case service plan, the parent's visitation history with the child, the children's well-being while in care, and the possibility of adoption." *In re White*, 303 Mich App 701, 714; ___ NW2d ___ (2014).

The circuit court considered the loss of respondent's bond with her children in its best-interest analysis. Respondent's young son had been in foster care "the majority of his life" and the children no longer remembered their mother when she finally visited them just before the termination hearing. The children had been in several homes during the 20-month proceedings and required permanency. Given their young ages, the children would likely find an adoptive home in which they could remain together, the court reasoned. Delaying the termination would reduce the children's likelihood of adoption, however. The court further noted the lack of appropriate relative placement for the children.

The court also considered respondent's "almost . . . total lack of involvement . . . in this particular matter or little [i]f any involvement on her part." Given her inability to evidence any improvement in her parenting skills and apparent lack of investment in remedying the conditions that lack to the loss of custody, the court found termination to be in the children's best interests. These conclusions are supported by a preponderance of the evidence and we will not interfere with the circuit court's judgment.

We affirm.

/s/ Jane M. Beckering
/s/ Joel P. Hoekstra
/s/ Elizabeth L. Gleicher